



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2019-0010]

RIN 1625-AA08

Special Local Regulation; Sail Grand Prix 2019 Race Event; San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation in the navigable waters of San Francisco Bay in San Francisco, CA in support of the San Francisco Sail Grand Prix 2019 race periods on May 4, 2019 and May 5, 2019. This special local regulation is necessary to ensure the safety of mariners transiting the area from the dangers associated with high-speed sailing activities associated with the Sail Grand Prix 2019 race event. This temporary special local regulation will temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area.

DATES: This rule is effective from 10:30 a.m. on May 4, 2019 through 3:00 p.m. on May 5, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0010 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Emily K. Rowan, U.S. Coast Guard District 11, Sector San Francisco, at 415-399-7443, SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
§	Section
COTP	Captain of the Port
PATCOM	Patrol Commander
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On October 12, 2018, the LeadDog Marketing Corporation notified the Coast Guard of an intention to conduct the “Sail Grand Prix 2019” in San Francisco Bay. Sail Grand Prix is a sailing league featuring world-class sailors racing 50-foot foiling catamarans. The inaugural season started February 2019 in five iconic cities throughout the world, traveling to San Francisco Bay in May 2019. In San Francisco, they proposed to take advantage of the natural amphitheater that the central bay and city waterfront provide.

In response, on March 18, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Sail Grand Prix 2019 Race Event; San Francisco, CA” (84 FR 9727). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this sailing event. During the comment period that ended on April 17, 2019, we received one comment.

Based off lessons learned during the multi-agency planning process, we are implementing an additional zone to the Special Local Regulation, Zone “D”. Zone “D” will be a no loitering or

anchoring area along the San Francisco Waterfront that will allow vessels to transit, allowing for more accessibility to the waterfront areas. Additionally, to accommodate the updated, finalized event agenda, the times were altered to minimize impact to San Francisco Waterfront.

Under 5 U.S.C. 533(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

This special local regulation will encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48'18" N, 122°27'44" W; thence to 37°48'30" N, 122°27'56" W; thence to 37°49'14" N, 122°27'59" W; thence to 37°49'30" N, 122°25'36" W; thence to 37°49'10" N, 122°25'10" W; thence to 37°48'45" N, 122°25'10" W; thence to 37°48'42" N, 122°25'13" W and thence along the shore to the point of beginning. Located within this footprint, there will be three separate regulated areas: Zone "A", the Official Race Box Area; Zone "B", the Spectator Area; Zone "C", the Regulated Waterfront Transit Area; and Zone "D" the No Loitering or Anchoring Zone.

Zone "A", the Official Race Box Area, will be marked by approximately 12 colored visual markers. The position of these markers will be specified via Broadcast Notice to Mariners at least 3 days prior to the event. Because of the hazards posed by the sailing competition, Zone "A" is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone "B", the Spectator Area, will include specified parts of the waters immediately adjacent to racing Zone "A" and will be defined by latitude and longitude points as per Broadcast Notice to Mariners. Zone "B" will be further divided into three additional sub-areas: Zone "B1 East", Zone "B1 West", and Zone "B2". Zone "B1 East" and Zone "B1 West" will be the

general spectator zone that is open to all vessel spectators. Zone “B2” will be a separate designated spectator area marked by approximately four colored buoys that will be managed by marine event sponsor officials. The designation of Zone “B”, to include Zone “B1 East”, Zone “B1 West”, and Zone “B2”, will allow spectators to observe the Sail Grand Prix 2019 race event in a regulated area at a safe distance from the sailing race occurring in Zone “A”.

Zone “C” will be the designated Waterfront Transit Area along the city of San Francisco waterfront marked by buoys on one side and the shoreline on the other. This one-directional lane will provide vessels the opportunity to pass along the San Francisco waterfront, avoiding interference with the other established areas. Vessels will be authorized to transit through this zone with approval from the COTP or designated authority. Zone “C” is essential to provide vessels the opportunity to transit along the city of San Francisco waterfront while maintaining the integrity of the regulated areas for the race event. Due to the dynamic nature of the Sail Grand Prix 2019, there is a need for a Waterfront Transit Area so mariners along the waterfront can transit the impacted waterways at designated times. This Zone “C” is necessary for the protection of waterway users and participants in the sailing race event while minimizing the impact to the city of San Francisco maritime community.

Zone “D” will be the No Loitering or Anchoring Zone. This Zone will allow vessels to transit along the waterfront throughout the duration of the Sail Grand Prix. All vessels shall maintain headway and shall not loiter or anchor within the confines of Zone “D”. Mariners can transit Zone “D” freely during the Sail Grand Prix, decreasing the impact to the San Francisco Waterfront Area.

These regulations are needed to keep persons and vessels away from the sailing race vessels, which exhibit unpredictable maneuverability and have a demonstrated likelihood during

the simulation of racing scenarios for capsizing. The special local regulation will help prevent injuries and property damage that may be caused upon impact by these fast-moving vessels. The provisions of this temporary special local regulation will not apply to anchored vessels, nor will they exempt racing vessels from any federal, state, or local laws or regulations, including Nautical Rules of the Road. The Coast Guard is issuing this rulemaking under authority in 33 U.S.C. 1231.

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta. Pursuant to 33 CFR 1.05-1(i), the Commander of Coast Guard District 11 has delegated to the COTP San Francisco the responsibility of issuing such regulations.

III. Discussion of Comments, Changes and the Rule

As noted above, we received 1 respondent written comment on our NPRM published March 18, 2019. The comment recommends establishing the rule for the specific period of time during the race and recommends prohibiting all other vessels on the water. In order to mitigate the risk to safe operation of vessels on the race days, the Coast Guard defined a regulated area for spectator vessels. The Coast Guard aims to facilitate safe viewing of the race competition by establishing and assigning maintenance responsibility of a clearly delineated region for spectators to safely maneuver while viewing the competition.

No changes were made to the rule based upon the received comment; however the Coast Guard recognizes the importance of imposing appropriate controls on vessels attempting to gain access to the regulated race area on the days of the race completion.

After discussion with other local government agencies and involved sponsor personnel,

Zone “D” was added in efforts to reduce the impact to the San Francisco Waterfront and allow mariners to access marines and fuel docks within Zone “D”. Additionally, to accommodate the updated, finalized event agenda, the times were altered to minimize impact to San Francisco Waterfront.

This rule establishes a special local regulation associated with the Sail Grand Prix 2019 race event from 10:30 a.m. on May 4, 2019 to approximately 3:00 p.m. on May 5, 2019 which will be enforced from 10:30 a.m. to 3:00 p.m. on May 4, 2019, and 10:30 a.m. to 3:00 p.m. on May 5, 2019, or as announced by Broadcast Notice to Mariners. The areas regulated by this special local regulation are east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the city of San Francisco waterfront. The Coast Guard will establish a primary race area, a spectator area, a waterfront transit area and a no loitering or anchoring area. An image of this regulated area may be found in the docket. The special local regulation covers all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48’18” N, 122°27’44” W; thence to 37°48’30” N, 122°27’56” W; thence to 37°49’14” N, 122°27’59” W; thence to 37°49’30” N, 122°25’36” W; thence to 37°49’10” N, 122°25’10” W; thence to 37°48’45” N, 122°25’10” W; thence to 37°48’42” N, 122°25’13” W and thence along the shore to the point of beginning. Zone “A”, Zone “B”, Zone “C” and Zone “D” are all to be included within the special local regulation.

The duration of the establishment of this special local regulation is intended to ensure the safety of vessels in these navigable waters during the scheduled race days. This temporary special local regulation will temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit

vessels and persons not participating in the race event from entering the dedicated race area.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the special local regulation. With this special local regulation, the Coast Guard intends to maintain commercial access to the ports through an alternate vessel traffic management scheme. The special local regulation is limited in duration, and is limited to a narrowly tailored geographic area with designated and adequate space for transiting vessels to pass when permitted by the COTP or a designated representative. In addition, although this rule restricts access to the waters encompassed by the special local regulation, the effect of this rule will not be significant because the local waterway users will be notified in advance via public Broadcast Notice to Mariners to ensure the special local regulation will result in minimum impact. Therefore mariners will be able to plan ahead and transit outside of the periods of enforcement of the special local

regulation, and if they choose not to do so, they will be able to transit the city of San Francisco Waterfront via Zone “C” with approval from the COTP or designated representative or Zone “D”. The entities most likely to be affected are commercial vessels and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 00 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

When the special local regulation is in effect, vessel traffic can pass safely around the regulated area. The maritime public will be advised in advance of this special local regulation via Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have

questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal

agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation that will create regulated areas of limited size and duration that includes defined regulated areas for vessel traffic to pass. Normally such actions are categorically excluded from further review under paragraphs L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements,
Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.35T11-0291 to read as follows:

§100.35T11-0291 Special Local Regulation; Sail Grand Prix 2019 Race Event, San Francisco, CA.

(a) Location. The following area is a temporary special local regulation: all navigable waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following points, beginning at: 37°48'18" N, 122°27'44" W; thence to 37°48'30" N, 122°27'56" W; thence to 37°49'14" N, 122°27'59" W; thence to 37°49'30" N, 122°25'36" W; thence to 37°49'10" N, 122°25'10" W; thence to 37°48'45" N, 122°25'10" W; thence to 37°48'42" N, 122°25'13" W and thence along the shore to the point of beginning.

(b) Definitions. As used in this section:

- (1) Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting

the Captain of the Port San Francisco (COTP) in the enforcement of the special local regulation.

- (2) Patrol Commander or PATCOM means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the COTP, to assist in the enforcement of the special local regulation.
- (3) Zone “A” means the Official Race Box Area, will be marked by approximately 12 colored visual markers. The position of these markers will be specified via Broadcast Notice to Mariners at least 3 days prior to the event.
- (4) Zone “B” means the Spectator Area, will include the waters outside of racing Zone “A” and will be defined by latitude and longitude points as per Broadcast Notice to Mariners. Zone “B” is be further divided into three additional sub-areas: Zone “B1 East”, Zone “B1 West”, and Zone “B2”. Zone “B1 East” and Zone “B1 West” mean the general spectator zone that is open to all vessel spectators. Zone “B2” means the separate designated spectator area marked by approximately four colored buoys that will be managed by marine event sponsor officials.
- (5) Zone “C” means the designated Waterfront Transit Area. This one-directional lane will provide vessels the opportunity to pass along the San Francisco waterfront, avoiding interference with the other established areas. Vessels will be authorized to transit through this zone with approval from the COTP or designated authority. Zone “C” is essential to provide vessels

the opportunity to transit along the city of San Francisco waterfront while maintaining the integrity of the regulated areas for the race event.

(6) Zone “D” means the designated No Loitering or Anchoring Area. This Zone will allow vessels to transit along the waterfront throughout the duration of the Sail Grand Prix. All vessels shall maintain headway and shall not loiter or anchor within the area of Zone “D”. Zone “D” minimizes the impact to the San Francisco Waterfront Area so mariners have the ability to transit during the times when Zone “C” is not in effect for transiting.

(c) Special local regulation. The following regulations apply between 10:30 a.m. and 3:00 p.m. on the race event days.

(1) Only support and race vessels may be authorized by the COTP or designated representative to enter Zone “A” during the race event. Vessel operators desiring to enter or operate within Zone “A” must contact the COTP or a designated representative to obtain permission to do so. Persons and vessels may request permission to transit Zone “A” on VHF-23A.

(2) Spectator vessels in Zone “B” must maneuver as directed by the COTP or designated representative. When hailed or signaled by the COTP or designated representative by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful directions issues. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(3) Spectator vessels in Zone “B” must operate at safe speeds which will create minimal wake.

(4) Vessel operators desiring to enter or operate within Zone “C”, the designated waterfront transit area, must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in Zone “C” must comply with all directions given to them by the COTP or designated representative. Persons and vessels may request permission to transit Zone “C” on VHF-23A.

(5) Vessels operated in Zone “D” must maintain headway and shall not loiter or anchor within the Zone. Vessels in Zone “D” must comply with all directions given to them by the COTP or designated representative.

(6) Rafting and anchoring of vessels are prohibited within Zones “A”, “B”, “C” or “D”.

(d) Enforcement periods. The special local regulation in paragraph (c) of this section will be enforced for race events on May 4, 2019 and May 5, 2019 from 10:30 a.m. until approximately 3:00 p.m. each day. The zones described in paragraph (b) of this section will be enforced from 10:30 a.m. until 3:00 p.m. on each of May 4, 2019 and May 5, 2019. At least 24 hours in advance of the race event, the Captain of the Port of San Francisco (COTP) will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners and in writing via the Coast Guard Boating Public Safety Notice.

Dated: April 29, 2019.

Marie B. Byrd,
Captain, U.S. Coast Guard,
Captain of the Port, San Francisco.

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